

BEFORE THE DEPART OF INSURANCE
STATE OF NEBRASKANEBRASKA DEPARTMENT
OF INSURANCE

APR 02 2003

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

CONSENT ORDER FILED

PETITIONER,

VS.

CAUSE NO. A-1461

KIRT ELLIOTT,

RESPONDENT.

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Manuel Montelongo, and Kirt Elliott, ("Respondent") by and through his attorney Vic Terry, mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb.Rev.Stat. §44-101.01 and §44-4001, et seq., and §44-4047 et seq., the latter replacing §44-4001 et seq. effective September 1, 2001
2. Respondent is licensed as an insurance agent under the laws of Nebraska at all times material hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Kirt Elliott, on July 22, 2003. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.
2. The petition alleges that Respondent violated Neb.Rev.Stat. §44-4059(b) and (h); and Title 210, Chapter 36, Section 021.02 as a result of the following conduct:
 - a. On or about February 9, 2001, the Respondent solicited an American Pioneer Life Insurance Company (hereafter "American Pioneer") Medicare

Supplement insurance policy, from Richard Kettleler of Albion, Nebraska. Mr. Kettleler had an existing Celtic Insurance Company Medicare Supplement insurance policy in force through June 1, 2001, when the American Pioneer Medicare Supplement insurance policy became effective. Therefore, the Respondent's sale of the American Pioneer insurance policy resulted in Mr. Kettleler having two American Pioneer insurance policies in force at the same time for over two months in violation of Nebraska Administrative Rules and Regulations, Title 210, Chapter 36, Section 021.02.

- b. On or about November 27, 2001, the Respondent solicited a Conseco Medicare Supplement insurance policy, and a Conseco Long-Term Care insurance policy from Marion Gibson of Wahoo, Nebraska. Ms. Gibson gave the Respondent a check in the amount of \$1,060.50 made out to Insurance Service of Nebraska, the insurance agency of the Respondent. Insurance agent Jerome J. O'Connor Jr. was not present when the Conseco applications were solicited. The Conseco applications were submitted to Conseco and misrepresented that Jerome J. O'Connor Jr. signed the applications as the soliciting agent and misrepresented that he interviewed Ms. Gibson, recorded the information on the applications and witnessed her signature on the applications.

3. The Respondent was informed of his right to a public hearing. Respondent waives that right, and enters into this Consent Order freely and voluntarily. Respondent understands and acknowledges that by waiving his right to a public hearing, Respondent also waives his right to confrontation of witnesses, production of evidence, and judicial review.

4. Respondent admits the allegations contained in the Petition and restated in Paragraph #2 above.

CONCLUSIONS OF LAW


Respondent's conduct as alleged above constitutes a violation of Neb. Rev. Stat. §44-4059(b) and (h); and Title 210, Chapter 36, Section 021.02.

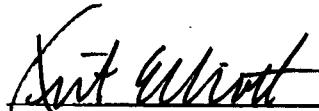
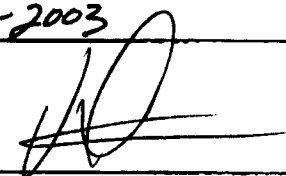
CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed to by Respondent, Kirt Elliott, consents to pay an administrative fine of \$1,000.00. The Respondent also agrees to comply with Nebraska law regarding solicitation of insurance and appointment of insurance agents, and he agrees not sell Medicare Supplement insurance coverage that will duplicate

existing Medicare Supplement insurance coverage. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

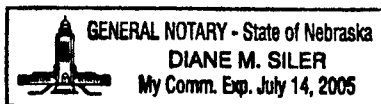
In witness of their intention to be bound by this Consent Order, each party executed this document by subscribing his or her signature below.

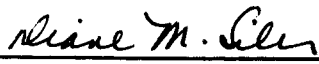

Manuel Montelongo *MARTIN SWANSON # 20795*
 Department of Insurance
 941 "O" Street, Suite 400
 Lincoln, NE 68508
 (402) 471-2201
4/1/03
 Date


Kirt Elliott, Respondent
3-31-2003
 Date
2 
 Attorney for Respondent
3-31-03
 Date

State of Nebraska)
 County of Douglas) ss.

On this 31st ^{March} day of February, 2003, Kirt Elliott personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.




Diane M. Siler
 Notary Public

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Kirt Elliott, Cause No. A-1461.

STATE OF NEBRASKA
 DEPARTMENT OF INSURANCE



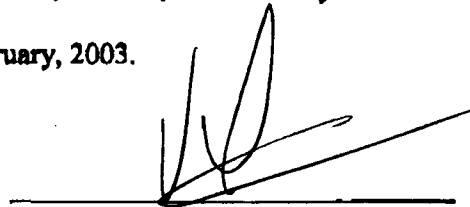
L. TIM WAGNER
Director of Insurance

4/2/03

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at Respondent's attorney Victor Terry, 319 So. 17th, #728, Omaha, Lincoln, NE 68102 by certified mail, return receipt requested on this 31 day of February, 2003.



CERTIFICATE OF SERVICE

I hereby certify that a copy of the executed Consent Order was sent to the Respondent at Respondent's attorney Victor Terry, 319 So. 17th, #728, Omaha, NE 68102 by certified mail, return receipt requested on this 2nd day of April, 2003.

